IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7957 OF 2004

Kum. Omeshwari Omprakash Panth,
aged 19 years, residing at
B-36/15, D.A.D. Complex,
Market Yard, Lulla Nagar,
Pune. .... Petitioner

- Versus -

1. State of Maharashtra
through its Secretary,
Social Welfare Department,
Mantralaya, Mumbai-32.

2. Divisional Caste Certificate
Scrutiny Committee, Pune
Division, Pune through its
Member-Secretary, having its
office at Sugandha Chambers,
Pangul Aali, Ganesh Peth,
Pune.

3. Director of Technical
Education, Maharashtra State,
3, Mahapalika Marg, Dhobi
Talao, Mumbai-400 001.

4. Principal,
Cummins College of Engineering
for Women, Karve Nagar,
Pune-411 004.

5. University of Pune,
Shivaji Nagar, Pune. .... Respondents

Shri R.K. Mendadkar, Advocate, for the
Petitioner.

Shri C.R. Sonawane, Asstt. Government Pleader,
for the State.

CORAM: R.M.S. KHANDEPARKAR &
NARESH H. PATIL, JJ.

DATED: AUGUST 21, 2006

ORAL JUDGMENT (Per R.M.S. Khandeparkar, J.):

1. Heard. Rule. By consent, rule is made returnable forthwith.

2. The petitioner challenges the order passed by the Scrutiny Committee invalidating the caste claim of the petitioner. Though the impugned order is challenged on various grounds, it is not necessary to consider all those grounds and suffice to refer to only one ground, namely, failure on the part of the Scrutiny Committee to hear the petitioner before the final order being passed. Undisputedly, the procedure prescribed for verification of the caste claim of the claimant by the Scrutiny Committee requires opportunity of being heard to be given to the claimant before the final decision is arrived at by the Scrutiny Committee and in the case in hand, the records apparently disclose failure on the part of the Scrutiny Committee to comply with the said mandatory requirement. Being so, the impugned order having been passed without even following the basic principles of natural justice, apart from the specific rule in that regard incorporated under the rules framed under the statute applicable to the procedure before the

Scrutiny Committee, the impugned order cannot be sustained and is liable to be set aside and the matter to be remanded to the Scrutiny Committee to consider the matter afresh in accordance with the provisions of law, after affording opportunity to the petitioner of being heard in the matter.

3. In the result, therefore, on the limited ground as stated above, the impugned order is hereby set aside and the matter is remanded to the Scrutiny Committee to decide the caste claim of the petitioner afresh in accordance with the provisions of law based on whatever materials which were already placed before the Scrutiny Committee as well as any further material that may be placed by the parties. The petitioner to appear before the Scrutiny Committee on 18-9-2006 at 11:00 a.m.. The Scrutiny Committee is expected to decide the caste claim of the petitioner within twelve weeks thereafter. In case the decision of the Scrutiny Committee happens to be adverse to the petitioner, same shall not be given effect to for a period of four weeks from the date of communication of the decision to the petitioner.

(Naresh H. Patil, J.) (R.M.S.Khandeparkar, J.)

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